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U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE			
SUPPLEMENTAL INTERVIEW SUMMARY		Attorney Docket Number: 13355/107 PATENT	
Applicant Douglas H. ROBINSON	Application No. 09/759,345 Conf No.: 3100	Filing Date January 16, 2001	
Patent Number	Issued	Examiner Robert A. ZEMAN	Art Unit 1645
Invention Title METHODS FOR THE ISOLATION OF BACTERIA CONTAINING EUKARYOTIC GENES		Assignee	

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Sir:

Applicant acknowledges receipt of the Interview Summary mailed on May 8, 2006, and again thanks Examiner Zeman and Supervising Patent Examiner Smith for the courtesy extending during the interview on May 3, 2006. However, Applicant would like to note that the incorrect mailing address was used. The correspondence address was changed in the Supplemental Power of Attorney filed on February 10, 2006, and also appears below. Please note this change of correspondence address for future communications.

The comments to MPEP Section 713.04 note that "[i]t is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file." Pursuant to this charge, Applicant wishes to note certain omissions and inaccuracies in the Interview Summary, and submits the following comments, in order to provide a full, clear, and complete record of the substance of the interview.

The Summary states that "Applicant explained that the claimed method did not involve 'deevolution' as it is his belief that prokaryotes evolved from eukaryotes." This is not a complete summary of the discussion, and the applicant believes that it presents a distorted view of the substance of the interview. The principal discussion regarding the nature of the invention was presented by the applicant with specific reference to the specification, to the language of the pending claims, and to the prosecution history record, namely, that the invention lies in the discovery of a new method of producing cells identifiable as bacteria (*i.e.*, as prokaryotes) from a

sterile culture of virally-infected eukaryotic cells, and which contain a eukaryotic and/or viral gene, and further lies in the non-transgenic cells that can be produced by this method. The statement regarding "deevolution" and the *possibility* that prokaryotes evolved from eukaryotes (a theory proposed by others in the field, and not one developed by the applicant) was made in response to questions by the examiner, and was the Applicant's expression of disagreement with the *examiner's* belief that the underlying mechanism of the claimed method requires "deevolution." In responding to these questions the applicant stated, first, that the specifics of the mechanism underlying the invention are not, as a matter of law, relevant to the patentability of the claims (which do not recite underlying mechanisms), and, second, that it is *not* the applicant's belief or position that the mechanism underlying the invention involves "deevolution" (a term and concept that is neither used nor described in the specification), and that it is inaccurate to characterize the invention by that term.

The Summary further states that there was discussion regarding the pending rejections with regard to the terms "bacteria" and "producing," but does not mention the arguments made by the applicant, namely that the specification provides a clear definition of the term "bacteria" as it applies to the invention, that the Board, in its observations on remand, clearly indicated its agreement with the applicant that both of these terms were acceptable for use in describing the invention (when used in an appropriate context of total claim language), and that in any event these particular rejections are moot because these terms do not appear in the pending claims.

The remainder of the Summary is accepted as complete and accurate.

Respectfully submitted,

Dated: May 17, 2006

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